

JUN 26 2008

**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-1597

**SEAN HENDER,
a.k.a. SEAN ERIC HENDER**

A C C U S A T I O N

6421 Pine Meadow Place
Anderson, CA 96007

Vocational Nurse License No. VN 208219

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.
2. On or about February 26, 2004, the Board issued Vocational Nurse License Number VN 208219 to Sean Hender, also known as Sean Eric Hender ("Respondent"). Respondent's license will expire on June 30, 2009, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct. . .

. . . .

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction. . .

6. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022 . . .

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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8. **“Methadone”** is a Schedule II controlled substance as designated by
fety Code section 11055, subdivision (c)(14).

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

9. Respondent is subject to disciplinary action pursuant to Code section 243, subdivision (e)(1) (battery on a person), in that he was convicted of a crime which is substantially related to the functions, and duties of a licensed vocational nurse, as follows: On or about 2007, in the criminal proceeding titled *People v. Sean Hender* (Super. Ct. Shasta County, 2007, No. 07-04193), Respondent was convicted by a jury of one count in violation of Penal Code section 243, subdivision (e)(1) (battery on a person). The incident upon which the conviction is based occurred on approximately February 5,

SECOND CAUSE FOR DISCIPLINE

(Self-Administration of a Controlled Substance)

10. Respondent is subject to disciplinary action pursuant to Code section 10-100 (a), on the grounds of unprofessional conduct, as defined by Code section 10-100 (a). In or about and between 2005 and 2007, Respondent self-administered substance Methadone without lawful authority therefore, evidenced as follows:

On or about February 5, 2007, while Respondent was being questioned by Shasta County Sheriff's Deputy [redacted] about assaulting his wife on or about February 5, 2007, Respondent stated that he was using his wife's Methadone to treat a back injury from a car accident in 2005, that he was taking one pill per day and quickly escalated to using many 10 milligram pills per day, that he became hooked on the medication due to the pain relief and pleasure it gave him, that he was unable to stop taking the medication because it was not a medication prescribed by the doctor, and that he had become hooked on pain medications while serving in the U.S. Army in Iraq.

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